

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANGEL FOWLER and ARIEL
FOWLER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

THERESA LOUISE FOWLER,

Respondent-Appellant,

and

HERSHAL WAYNE FOWLER,

Respondent.

UNPUBLISHED

May 1, 2007

No. 273168

Oakland Circuit Court

Family Division

LC No. 05-706302-NA

Before: Whitbeck, C.J., and Murphy and Cooper, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her minor children under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

This Court reviews for clear error the lower court's determination that the petitioner established at least one statutory ground for termination by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000). We must affirm a lower court's decision if there was clear and convincing evidence of any statutory ground, regardless whether the lower court erred in finding sufficient evidence under other statutory grounds. *In re Sours Minors*, 459 Mich 624, 640-641; 593 NW2d 520 (1999).

Petitioner provided sufficient evidence that, under MCL 712A.19b(3)(c)(i), respondent did not rectify the conditions leading to adjudication and was not reasonably likely to do so within a reasonable time. Respondent submitted no drug screens after her positive screen and lacked stable housing throughout the proceedings. She continued to demonstrate poor judgment by failing to contact her caseworker and comply with the parent-agency agreement, even though that prevented her from seeing the children for a year. There was no evidence at the termination hearing that respondent was making any progress on these issues after more than a year.

Petitioner also provided sufficient evidence that, under MCL 712A.19b(3)(g), respondent failed to provide proper care and custody and was not reasonably likely to do so within a reasonable time. It was not necessary to offer expert testimony of mental problems as respondent suggests. Respondent left her children alone with her husband overnight, despite that he was only recently sober after years of alcoholism and had outstanding warrants. Respondent had the opportunity to show that this was an isolated mistake. Throughout the proceedings, however, she only demonstrated that her problems were more severe than first thought. Her cocaine use, instability, poor judgment, and lack of housing and employment prevented her from properly caring for the children, and there was no indication that she could resolve those problems in a reasonable time. These issues also made it reasonably likely that, under MCL 712A.19b(3)(j), the children would be harmed if returned to respondent.

Thus, the lower court did not err when it found that termination was warranted under MCL 712A.19b(3)(c)(i), (g), and (j). Accordingly, we need not address whether the evidence of abandonment was sufficient under MCL 712A.19b(3)(a)(ii).

Whenever a lower court finds a statutory ground for termination, it must terminate parental rights unless termination is clearly against the children's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 352-353. There is no specific burden on either party; rather, the trial court should weigh all the evidence available. *Id.* at 353.

Respondent argues on appeal that she and the children shared a strong bond, evidenced by the youngest child's distress when visits ended. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). Respondent, however, had not seen her children in a year because she failed to submit drug screens and keep in contact with her caseworker. Respondent also argues that her own flaws were less serious than problems with the foster care system. However, there was no evidence that the children suffered in foster care, and the maternal grandmother was reluctant to have them leave their foster home, which she described as very loving. The grandmother and respondent both admitted that respondent was not ready to care for her children. The lower court properly considered the children's need for permanence. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991).

The lower court did not err when it held that termination was not clearly against the children's best interests and terminated respondent's parental rights.

Affirmed.

/s/ William C. Whitbeck
/s/ William B. Murphy
/s/ Jessica R. Cooper